

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Dennis Tyrone Hamilton,)	
)	C/A No. 9:11-2644-MBS
Plaintiff,)	
)	
vs.)	
)	O R D E R
State of South Carolina,)	
)	
Defendant.)	
_____)	

Plaintiff Dennis Tyrone Hamilton currently is a detainee at the Al Cannon Detention Center in North Charleston, South Carolina. On October 3, 2011, Plaintiff, proceeding pro se, filed a complaint alleging as follows:

At a party there was a fight of about thirty or forty people and a statement made that they think I may have stabbed someone, and the victim states he doesn't [sic] know how or who, all this happen 6/13/2010.

Complaint 3 (ECF No. 1). Attached to Plaintiff's complaint is a Case Supplemental Report describing the incident in greater detail. It appears that Plaintiff brings this action pursuant to 42 U.S.C. § 1983, alleging that his constitutional rights have been violated. Plaintiff asks for no specific relief.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., the within action was referred to United States Magistrate Judge Bristow Marchant for pretrial handling. The Magistrate Judge reviewed the complaint pursuant to the provisions of 28 U.S.C. §§ 1915, 1915A, and the Prison Litigation Reform Act. On November 13, 2011, the Magistrate Judge issued a Report and Recommendation in which he noted that the State of South Carolina is protected from suit by the Eleventh Amendment. The Magistrate Judge further noted that Plaintiff has provided no facts to demonstrate that he was wrongfully incarcerated. In addition, the Magistrate Judge determined that a ruling that failed to include a remedy would amount to an advisory opinion. Accordingly, the

Magistrate Judge recommended that the complaint be summarily dismissed. Plaintiff filed no objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of any portions of the Report and Recommendation to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has carefully reviewed the record. The court adopts the Report and Recommendation and incorporates it herein by reference. The within action is summarily dismissed, without prejudice.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
United States District Judge

Columbia, South Carolina

November 15, 2011.

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.